

1 ANNMARIE MORI (SBN 217835)
Email: amori@troygould.com
2 RUSSELL I. GLAZER (SBN 166198)
Email: rglazer@troygould.com
3 TROYGOULD PC
1801 Century Park East, 16th Floor
4 Los Angeles, CA 90067-2367
Telephone: (310) 553-4441
5 Facsimile: (310) 201-4746

6 Attorneys for Plaintiffs
BROADCAST MUSIC, INC.; CONDUCTIVE
7 MUSIC; SPIRIT ONE MUSIC, A DIVISION OF
SPIRIT MUSIC GROUP INC.; EMBASSY MUSIC
8 CORPORATION; STONE DIAMOND MUSIC
CORP.; WARNER-TAMERLANE PUBLISHING
9 CORP. and BEECHWOOD MUSIC
CORPORATION

10
11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14 BROADCAST MUSIC, INC.;
CONDUCTIVE MUSIC; SPIRIT ONE
15 MUSIC, A DIVISION OF SPIRIT
MUSIC GROUP INC.; EMBASSY
16 MUSIC CORPORATION; STONE
DIAMOND MUSIC CORP.;
17 WARNER-TAMERLANE
PUBLISHING CORP.; BEECHWOOD
18 MUSIC CORPORATION,

19 Plaintiff,

20 v.

21 THE NOYPITZ BAR &
RESTAURANT LLC d/b/a THE
22 NOYPITZ BAR AND GRILL; LAURO
CALONZO; JAMES LOPEZ;
23 APOLLO ROBLES JR.; and GEMMA
24 STRONG, each individually,

25 Defendant.
26
27
28

Case No.

COMPLAINT FOR COPYRIGHT
INFRINGEMENT

1
2 Plaintiffs Broadcast Music, Inc., Conducive Music, Spirit One Music, a Division of Spirit Music
3 Group Inc., Embassy Music Corporation, Stone Diamond Music Corp., Warner-Tamerlane Publishing
4 Corp. and Beechwood Music Corporation (collectively, “Plaintiffs”), by their attorneys, for their
5 Complaint for Copyright Infringement against Defendants The Noypitz Bar & Restaurant LLC d/b/a
6 The Noypitz Bar and Grill, Lauro Calonzo, James Lopez, Apollo Robles Jr.; and Gemma Strong
7 (collectively, “Defendants”), allege as follows (on knowledge as to Plaintiffs; otherwise on information
8 and belief):
9

10 JURISDICTION AND VENUE

11 1. This is a suit for copyright infringement under the United States Copyright Act of 1976,
12 as amended, 17 U.S.C. Sections 101 *et seq.* (the “Copyright Act”). This Court has jurisdiction pursuant
13 to 28 U.S.C. Section 1338(a).
14

15 2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).
16

16 THE PARTIES

17 3. Plaintiff Broadcast Music, Inc. (“BMI”), is a corporation organized and existing under
18 the laws of the State of Delaware. BMI’s principal place of business is 7 World Trade Center, 250
19 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public
20 performance rights in 20.6 million copyrighted musical compositions (the “BMI Repertoire”), including
21 those which are alleged herein to have been infringed.
22

23 4. The Plaintiffs other than BMI are the owners of the copyrights in the musical
24 compositions, which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P.
25 17(a) and 19(a).
26

27 5. Plaintiff Conducive Music is a sole proprietorship owned by Janice-Marie Vercher.
28 This Plaintiff is a copyright owner of at least one of the songs in this matter.

6. Plaintiff Spirit One Music, a division of Spirit Music Group, Inc. is a corporation. This

1 Plaintiff is a copyright owner of at least one of the songs in this matter.

2 7. Plaintiff Embassy Music Corporation is a corporation. This Plaintiff is a copyright
3 owner of at least one of the songs in this matter.

4 8. Plaintiff Stone Diamond Music Corp. is a corporation. This Plaintiff is a copyright
5 owner of at least one of the songs in this matter.

6 9. Plaintiff Warner-Tamerlane Publishing Corp. is a corporation. This Plaintiff is a
7 copyright owner of at least one of the songs in this matter.

8 10. Plaintiff Beechwood Music Corporation is a corporation. This Plaintiff is a copyright
9 owner of at least one of the songs in this matter.

10 11. Defendant The Noypitz Bar & Restaurant LLC is a limited liability company organized
11 and existing under the laws of the state of California, which operates, maintains and controls an
12 establishment known as The Noypitz Bar & Grill, located at 1230 Lakes Dr., Ste 102, West Covina, CA
13 91790, in this district (the "Establishment").

14 12. In connection with the operation of the Establishment, Defendant The Noypitz Bar &
15 Restaurant LLC publicly performs musical compositions and/or causes musical compositions to be
16 publicly performed.

17 13. Defendant The Noypitz Bar & Restaurant LLC has a direct financial interest in the
18 Establishment.

19 14. Defendant Lauro Calonzo is a member of Defendant The Noypitz Bar & Restaurant LLC
20 with responsibility for the operation and management of that limited liability company and the
21 Establishment.

22 15. Defendant Lauro Calonzo has the right and ability to supervise the activities of
23 Defendant The Noypitz Bar & Restaurant LLC and a direct financial interest in that limited liability
24 company and the Establishment.

16. Defendant James Lopez is a member of Defendant The Noypitz Bar & Restaurant LLC with responsibility for the operation and management of that limited liability company and the Establishment.

17. Defendant James Lopez has the right and ability to supervise the activities of Defendant The Noypitz Bar & Restaurant LLC and a direct financial interest in that limited liability company and the Establishment.

18. Defendant Apollo Robles Jr. is a member of Defendant The Noypitz Bar & Restaurant LLC with responsibility for the operation and management of that limited liability company and the Establishment.

19. Defendant Apollo Robles Jr. has the right and ability to supervise the activities of Defendant The Noypitz Bar & Restaurant LLC and a direct financial interest in that limited liability company and the Establishment.

20. Defendant Gemma Strong is a member of Defendant The Noypitz Bar & Restaurant LLC with responsibility for the operation and management of that limited liability company and the Establishment.

21. Defendant Gemma Strong has the right and ability to supervise the activities of Defendant The Noypitz Bar & Restaurant LLC and a direct financial interest in that limited liability company and the Establishment.

CLAIMS OF COPYRIGHT INFRINGEMENT

22. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 21.

23. Since March 2019, BMI has reached out to Defendants over fifty (50) times, by phone, mail, and email in an effort to educate Defendants as to their obligations under the Copyright Act with respect to the necessity of purchasing a license for the public performance of musical compositions in

1 the BMI Repertoire. Included in the letters were Cease and Desist Notices, providing Defendants with
 2 formal notice that they must immediately cease all use of BMI-licensed music in the Establishment.

3 24. Plaintiffs allege four (4) claims of willful copyright infringement, based upon
 4 Defendants' unauthorized public performance of musical compositions from the BMI Repertoire. All
 5 of the claims for copyright infringement joined in this Complaint are governed by the same legal rules
 6 and involve similar facts. Joinder of these claims will promote the convenient administration of justice
 7 and will avoid a multiplicity of separate, similar actions against Defendants.
 8

9 25. Annexed to this Complaint as a schedule (the "Schedule") and incorporated herein is a
 10 list identifying some of the many musical compositions whose copyrights were infringed by Defendants.
 11 The Schedule contains information on the four (4) claims of copyright infringement at issue in this
 12 action. Each numbered claim has the following eight lines of information (all references to "Lines" are
 13 lines on the Schedule): Line 1 providing the claim number; Line 2 listing the title of the musical
 14 composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4
 15 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the
 16 claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical
 17 composition; Line 6 indicating the copyright registration number(s) for the musical composition; Line
 18 7 showing the date(s) of infringement; and Line 8 identifying the Establishment where the infringement
 19 occurred.
 20

21 26. For each work identified on the Schedule, the person(s) named on Line 3 was the creator
 22 of that musical composition.
 23

24 27. For each work identified on the Schedule, on or about the date(s) indicated on Line 5,
 25 the publisher(s) named on Line 4 (including any predecessors in interest), complied in all respects with
 26 the requirements of the Copyright Act and received from the Register of Copyrights Certificates of
 27 Registration bearing the number(s) listed on Line 6.
 28

28. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical composition identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

29. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants publicly performed and/or caused to be publicly performed at the Establishment the musical composition identified on Line 2 without a license or permission to do so. Thus, Defendants have committed copyright infringement.

30. The specific acts of copyright infringement alleged in the Complaint, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

31. Plaintiffs seek statutory damages pursuant to 17 U.S.C. § 504. Plaintiffs further seek an order that Defendants be enjoined, pursuant to 17 U.S.C. § 502 from infringing, in any manner, the copyrighted musical compositions licensed by BMI.

WHEREFORE, Plaintiffs pray that:

(I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;

(II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. Section 504(c);

(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17

1 U.S.C. Section 505; and

2 (IV) Plaintiffs have such other and further relief as is just and equitable

3
4
5 Dated: July 5, 2023

TROYGOULD PC

6
7 By: /s/ AnnMarie Mori

8 AnnMarie Mori
9 Attorneys for Plaintiffs
10 BROADCAST MUSIC, INC.;
11 CONDUCTIVE MUSIC; SPIRIT ONE
12 MUSIC, A DIVISION OF SPIRIT MUSIC
13 GROUP INC.; EMBASSY MUSIC
14 CORPORATION; STONE DIAMOND
15 MUSIC CORP.; WARNER-TAMERLANE
16 PUBLISHING CORP. and BEECHWOOD
17 MUSIC CORPORATION
18
19
20
21
22
23
24
25
26
27
28

Schedule

Line 1	Claim No.	1
Line 2	Musical Composition	Boogie Oogie Oogie
Line 3	Writer(s)	Janice Marie Johnson; Perry Kibble
Line 4	Publisher Plaintiff(s)	Janice-Marie Vercher, an individual d/b/a Conducive Music; Spirit One Music, a Division of Spirit Music Group Inc.; Embassy Music Corporation
Line 5	Date(s) of Registration	5/2/78
Line 6	Registration No(s).	PA 5-715
Line 7	Date(s) of Infringement	11/4/22
Line 8	Place of Infringement	The Noypitz Bar and Grill

Line 1	Claim No.	2
Line 2	Musical Composition	How Sweet It Is To Be Loved By You a/k/a How Sweet It Is (To Be Loved By You)
Line 3	Writer(s)	Lamont Dozier; Brian Holland; Eddie Holland
Line 4	Publisher Plaintiff(s)	Stone Diamond Music Corp.
Line 5	Date(s) of Registration	8/27/64
Line 6	Registration No(s).	Ep 191750
Line 7	Date(s) of Infringement	04/29/2023
Line 8	Place of Infringement	The Noypitz Bar and Grill

Line 1	Claim No.	3
Line 2	Musical Composition	Long Train Runnin'
Line 3	Writer(s)	Tom Johnston
Line 4	Publisher Plaintiff(s)	Warner-Tamerlane Publishing Corp.
Line 5	Date(s) of Registration	5/14/73
Line 6	Registration No(s).	Ep 311574
Line 7	Date(s) of Infringement	11/4/22
Line 8	Place of Infringement	The Noypitz Bar and Grill

Line 1	Claim No.	4
Line 2	Musical Composition	We Will Rock You
Line 3	Writer(s)	Brian May
Line 4	Publisher Plaintiff(s)	Beechwood Music Corporation
Line 5	Date(s) of Registration	11/18/77 1/30/78 7/16/79
Line 6	Registration No(s).	Eu 846121 PA 107 PA 39-056
Line 7	Date(s) of Infringement	04/29/2023
Line 8	Place of Infringement	The Noypitz Bar and Grill
